

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

AVILA FLORES, Reyna Isabel

Plaintiff,

v.

RABABEH, Kheder and RABABEH, Imad

Defendants

Civ. No: 1:15-cv-1415-TSE-TCB

**Plaintiff's Opposition to Defendant Imad Rababeh's
Second Motion to File a Late Answer**

Plaintiff filed her original complaint in this action on October 30, 2015. On March 18, 2016, at a default judgment hearing, Defendant Imad Rababeh for the first time indicated that he intended to retain counsel and defend this lawsuit. The Court treated this as motion to file a late answer, and gave Defendants until April 8 to file a response. Today, Defendant Imad Rababeh has indicated that he has retained counsel, but asks for yet another three weeks to file an answer. While Plaintiff appreciates that attorneys maintain busy schedules, Defendant Imad Rababeh has already had ample time to respond to this lawsuit. For this reason, Plaintiff opposes the motion and submits that Defendant Imad Rababeh be ordered to file his answer by Friday, April 15.

PROCEDURAL POSTURE

Plaintiff Reyna Avila has been attempting to recoup substantial unpaid minimum and overtime wages from Defendants for the last six months. She filed the original complaint in this

action on October 30, 2015 (ECF No. 1), and she amended it on December 3 to add Imad Rababeh as a defendant. (ECF No. 6). Both times, the Deputy U.S. Marshals who served the complaints declared that they spoke with Defendant Imad Rababeh at the time of service. The Marshal who served the original complaint declared that he delivered it to Imad Rababeh personally on November 13. (*See* ECF No. 5). And the Marshal who served the amended complaint declared that he spoke with Imad Rababeh over the telephone on December 23. (ECF Nos. 10–11).

Defendants failed to answer or otherwise respond to either complaint and, on January 21, 2016, the Clerk entered their default. (ECF No. 13). Plaintiffs then moved for default judgment (ECF No. 15), to which Defendants again made no response. Only at the motion hearing on March 18 did either Defendant express any desire to defend this case: Defendant Imad Rababeh appeared pro se and moved orally to file a late answer. (ECF No. 19). The Court granted the motion and gave both Defendants leave to file a late answer by April 8. (*Id.*). On April 7, Defendant Imad Rababeh advised Plaintiff that he had retained counsel. Imad Rababeh’s counsel now requests until the end of April to respond to the complaint—in effect, a second motion to file a late answer.

ARGUMENT

While Plaintiff appreciates that attorneys maintain busy schedules, Defendant Imad Rababeh has already had ample time to respond to this lawsuit. Mr. Rababeh was first served nearly five months ago, and each day Plaintiff waits is another day she is denied the wages she is due. For this reason, Plaintiff submits that Defendant Imad Rababeh should be ordered to file his answer by Friday, April 15.

WHEREFORE, Plaintiff Reyna Avila respectfully requests that the Court order Defendant Imad Rababeh to file a response to the Amended Complaint by Friday, March 15.

Respectfully submitted this 7th day of April, 2016,

//s// Nicholas Cooper Marritz

Nicholas Cooper Marritz (VSB #89795)

Simon Y. Sandoval-Moshenberg (VSB #77110)

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Memorandum in Opposition to Defendant Imad Rababeh's Second Motion to File a Late Answer with the Clerk of the Court via the CM/ECF system on April 7, 2016.

I hereby certify that I have mailed the foregoing documents by First-Class U.S. Mail and email on April 7, 2016 to the following non-CM/ECF participants at their last known addresses:

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//s// Nicholas Cooper Marritz

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